

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:14-CV-127 KS

JAMES HEATH,)	ORDER
)	
Plaintiff,)	
)	
)	
NANCY A. BERRYHILL,)	ORDER
Acting Commissioner of Social Security,)	
)	
Defendant.)	
)	

Plaintiff's counsel filed a motion for approval of attorney's fees under section 206(b) of the Social Security Act, 42 U.S.C. § 406(b), in the amount of \$8,000.00. Attorney's fees under section 206(b) are paid from past-due benefits awarded to a successful claimant. 42 U.S.C. § 406(b). Plaintiff has previously been awarded attorney's fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, in the amount of \$4,500.00 (D.E. #39).

Defendant filed a response, stating that under *Gisbrecht v. Barnhart*, 535 U.S. 789 (2002), it is the duty of the Court to determine a reasonable fee.

It is ORDERED that Plaintiff's counsel be awarded fees under 42 U.S.C. § 406(b) in the amount of \$ 8,000.00, and refund to Plaintiff the smaller EAJA award of \$4,500.00.

This 26th day of May 2017.



KIMBERLY A. SWANK
UNITED STATES MAGISTRATE JUDGE